

Rousby offered himself against the Def^t of and upon the p^rmisses, and prayed a venire facias to the Sheriffe to bee directed to Cause to come twelve &c, the said Def^t by Kenelme Cheseldyne his Attorney alleadged, that in obedience to the Rule of the Court hee had put in his plea that advantage might not in strictnesse bee taken against him for his Lachesse, but Craved a Jury of y^e Neighbourhood wth a surveyo^r upon the Land, but the p^{lt} opposed the same and informed the Court that the land in Question was bounded by Edward southerne und^r whome the Def^t Claymes, July the 5th 1669 upon a pcell of land called Hogsdowne and then surveyed for the said southerne, Cont^a foure hundred and ffifty Acres, and produces the Certificate of the said parcell of land from the Record to the Court here Duely attested, by w^{ch} it did appeare to the Court that the said parcell of land called Hogsdowne surveyed for the said southerne the first of July 1669 did Joyne to a pcell of land taken up by M^r Stephen Horsey called Horseys Baliwick w^{ch} is the Lland claymed by the p^{lt}, the said p^{lt} did informe the Court that the land claymed by the def^t called alsoe Horseys Baliwick Containing Two hundred and fifty Acres was surveyed by the s^d Edw^d Southerne the Eighteenth of November 1672 and pduced the Certificate thereof duely attested to the Court, and that the said Two hundred & fifty Acres lay between Horseys Horseys Baliwick taken up by stephen Horsey, and now Claymed by the p^{lt} and Hogsdowne taken up in 1669 by the said southerne, and by him sould to one Gerrard in Virginia, and now in the possession of one Gerrard & Hill, That the said Two hundred & fifty Acres of land Claymed by the said Def^t surveyed by a Comon Warr^t and taken up of lands formerly surveyed, and lay betweene the said p^{lt}s land called Horseys Baliwick surveyed by stephen Horsey & Hogsdowne and therefore the said Survey was Voyd, and the Grant thereof being pattent upon pattent wthout recitall of the first suruptitiously obtained, and could not nor ought not to prejudice the said p^{lt}; The said p^{lt} objected against any Jury upon the land, for that the matter ought to be Tryed by a Jury at Barre hee haveing nothing but Record for his Evidence agt w^{ch} there can be noe Averrment, but the said Def^t Craveing a Resurvey of Horseys Baliwick formerly surveyed by stephen Horsey, The Court thought fitt at the Def^{ts} request to order that the same bee laid out according to the Ancient bounds thereof by the surveyo^r of Som^rsett County who is hereby appointed impowered & Comanded to Lay out the same in the presence of the sheriffe of the said County, who is hereby Comanded and impowered to sumon a Jury of the Neighbourhood, Provided that the said surveyo^r and Jury cause the said land called Horseys baliwick surveyed for the said stephen Horsey, and the said parcell of land Called Hogsdowne Surveyed in 1669 for the said southerne, to Joyne one to another and that they returne a Certificate of there proceedings herein to the Court here on the

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